

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BACKPAGE.COM LLC,)	
)	
Plaintiff,	)	No. C12-954-RSM
)	
and)	
	)	ANSWER TO AMENDED
THE INTERNET ARCHIVE,	)	COMPLAINT TO DECLARE
	)	INVALID AND ENJOIN
Plaintiff Intervenor,	)	ENFORCEMENT OF WASHINGTON
	)	SENATE BILL 6251 FOR VIOLATION
vs.	)	OF THE COMMUNICATIONS
	)	DECENCY ACT, AND THE FIRST
ROB MCKENNA, Attorney General of	)	AND FIFTH AMENDMENTS AND
Washington, et al.,	)	COMMERCE CLAUSE OF THE
	)	UNITED STATES CONSTITUTION
Defendants, in their official capacities.)	

Defendant DANIEL T. SATTERBERG, King County Prosecuting Attorney and defendants
RANDY J. FLYCKT, Adams County Prosecuting Attorney; ANDREW K. MILLER, Benton
County Prosecuting Attorney; GARY RIESEN, Chelan County Prosecuting Attorney; DEBORAH
S. KELLY, Clallam County Prosecuting Attorney; ANTHONY F. GOLIK, Clark County
Prosecuting Attorney; REA L. CULWELL, Columbia County Prosecuting Attorney; SUSAN I.
BAUR, Cowlitz County Prosecuting Attorney; STEVEN M. CLEM, Douglas County Prosecuting

ANSWER TO AMENDED COMPLAINT TO
DECLARE INVALID AND ENJOIN
ENFORCEMENT OF WASHINGTON
SB 6251 (C12-954-RSM) - 1

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Attorney; MICHAEL SANDONA, Ferry County Prosecuting Attorney; SHAWN SANT, Franklin
 County Prosecuting Attorney; MATTHEW L. NEWBERG, Garfield County Prosecuting Attorney;
 ANGUS LEE, Grant County Prosecuting Attorney; H. STEWARD MENEFEE, Greys Harbor
 County Prosecuting Attorney; GREGORY M. BANKS, Island County Prosecuting Attorney;
 SCOTT ROSEKRANS, Jefferson County Prosecuting Attorney; GREG ZEMPEL, Kittitas County
 Prosecuting Attorney; LORI LYNN HOCTOR, Klickitat County Prosecuting Attorney;
 JONATHAN L. MEYER, Lewis County Prosecuting Attorney; JEFF BARKDULL, Lincoln
 County Prosecuting Attorney; MICHAEL DORCY, Mason County Prosecuting Attorney; KARL
 SLOAN, Okanogan County Prosecuting Attorney; THOMAS A. METZGER, Pend Oreille County
 Prosecuting Attorney; MARK LINDQUIST, Pierce County Prosecuting Attorney; RANDALL K.
 GAYLORD, San Juan County Prosecuting Attorney; RICHARD A. WEYRICH, Skagit County
 Prosecuting Attorney; ADAM N. KICK, Skamania County Prosecuting Attorney; MARK K. ROE,
 Snohomish County Prosecuting Attorney; STEVE TUCKER, Spokane County Prosecuting
 Attorney; JON TUNHEIM, Thurston County Prosecuting Attorney; DANIEL BIGELOW,
 Wahkiakam County Prosecuting Attorney; JAMES L. NAGLE, Walla Walla County Prosecuting
 Attorney; DAVID S. McEACHRAN, Whatcom County Prosecuting Attorney; DENIS P. TRACY,
 Whitman County Prosecuting Attorney; JAMES P. HAGARTY, Yakima County Prosecuting
 Attorney, in their official capacities, herewith "defendants" in answer to plaintiff's Amended
 complaint to Declare Invalid and Enjoin Enforcement of Washington Senate Bill 6251 for Violation
 of the Communications Decency Act, and The First and Fourteenth Amendments and Commerce
 Clause of the United States Constitution admit, deny and state as follows:

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INTRODUCTION

1. Defendants admit only that this is an action pursuant to 42 U.S.C. §1983 and the Declaratory Judgment Act, 28 U.S.C. §2201, to enjoin enforcement of a new Washington law, Senate Bill 6251 9SB 6251”. All other allegations contained in paragraph 1 of plaintiff's amended complaint are denied.

2. Defendants admit only that SB 6251 was scheduled to take effect on June 7, 2012, that its purpose is to prevent sex trafficking of children, that advertising commercial sexual abuse of a minor is a class c felony subject to criminal penalties under Washington law, and that SB 6251 applies to a person who “knowingly publishes, disseminates, or displays, or causes directly or indirectly to be published, disseminated, or displayed any advertisement for a commercial sex act, which is to take place in the state of Washington and that includes the depiction of a minor. All other allegations contained in paragraph 2 of plaintiff’s amended complaint are denied.

3. Defendants admit only that in a prosecution under SB 6251 “it is not a defense that the defendant did not know the age of the minor depicted in the advertisement.” Defendants further admit only that it is a defense that “the defendant made a reasonable bona fide attempt to ascertain the true age of the minor depicted in the advertisement”. All other allegations contained in paragraph 3 of plaintiff’s amended complaint are denied.

4. Defendants lack knowledge sufficient to form a belief as to the truth or the falsity of the allegations regarding Tennessee, New York and New Jersey and therefore deny the same. All other allegations contained in paragraph 4 of plaintiff’s amended complaint are denied.

5. Defendants deny the allegations contained in paragraph 5 of plaintiff’s amended complaint.

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PARTIES

6. Defendants admit the allegations contained in paragraph 6 of plaintiff's amended complaint.

7. Defendants admit the allegations contained in paragraph 7 of plaintiff's amended complaint.

8. Defendants admit the allegations contained in paragraph 8 of plaintiff's amended complaint.

9. Defendants admit the allegations contained in paragraph 9 of plaintiff's amended complaint.

JURISDICTION AND VENUE

10. Defendants admit the allegations contained in paragraph 10 of plaintiff's amended complaint.

11. Defendants deny the allegations contained in paragraph 11 of plaintiff's amended complaint.

12. Defendants admit the allegations contained in paragraph 12 of plaintiff's amended complaint.

FACTUAL ALLEGATIONS

13. Defendants are without information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of plaintiff's amended complaint and therefore deny the same.

14. Defendants admit only that in September 2010, Craigslist did remove the adult services category from its website. Defendants are without information sufficient to form a belief as

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1 to the truth or falsity of the remaining allegations contained in paragraph 14 of plaintiff's amended
2 complaint and therefore deny the same.

3 15. Defendants admit only that Backpage.com allows users to post in a multitude of
4 categories and subcategories. Defendants are without information sufficient to form a belief as to
5 the truth or falsity of the remaining allegations contained in paragraph 15 of plaintiff's amended
6 complaint and therefore deny the same.

7 16. Defendants are without information sufficient to form a belief as to the truth or
8 falsity of the allegations contained in paragraph 16 of plaintiff's amended complaint and therefore
9 deny the same.

10 17. Defendants are without information sufficient to form a belief as to the truth or
11 falsity of the allegations contained in paragraph 17 of plaintiff's amended complaint and therefore
12 deny the same.

13 18. Defendants are without information sufficient to form a belief as to the truth or
14 falsity of the allegations contained in paragraph 18 of plaintiff's amended complaint and therefore
15 deny the same.

16 19. Defendants deny the allegations contained in paragraph 19 of plaintiff's amended
17 complaint.

18 20. Defendants are without information sufficient to form a belief as to the truth or
19 falsity of the allegations contained in paragraph 20 of plaintiff's amended complaint and therefore
20 deny the same.

21 21. Defendants admit the allegations contained in paragraph 21 of plaintiff's amended
22 complaint.

23
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1 22. Defendants are without information sufficient to form a belief as to the truth or
2 falsity of the allegations contained in paragraph 22 of plaintiff's amended complaint and therefore
3 deny the same.

4 23. Defendants are without information sufficient to form a belief as to the truth or
5 falsity of the allegations contained in paragraph 23 of plaintiff's amended complaint and therefore
6 deny the same.

7 24. Defendants admit the allegations contained in paragraph 24 of plaintiff's amended
8 complaint.

9 25. Defendants deny the allegations contained in paragraph 25 of plaintiff's amended
10 complaint.

11 26. Defendants deny the allegations contained in paragraph 26 of plaintiff's amended
12 complaint.

13 27. Defendants deny the allegations contained in paragraph 27 of plaintiff's amended
14 complaint.

15 **CLAIM I: VIOLATION OF THE COMMUNICATIONS DECENCY ACT, 47 U.S.C. §230,**
16 **PURSUANT TO 42 U.S.C. §1983**

17 28. Answering paragraph 28 of plaintiff's amended complaint, defendants re-allege their
18 previous responses to plaintiff's amended complaint as if fully set forth herein.

19 29. Defendants are without information sufficient to form a belief as to the truth or
20 falsity of the allegations contained in paragraph 29 of plaintiff's amended complaint and therefore
21 deny the same.

22 30. Defendants deny the allegations contained in paragraph 30 of plaintiff's amended
23 complaint.

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1 31. Defendants deny the allegations contained in paragraph 31 of plaintiff's amended
2 complaint.

3 32. Defendants deny the allegations contained in paragraph 32 of plaintiff's amended
4 complaint.

5 **CLAIM II: VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS**
6 **OF THE CONSTITUTION, PURSUANT TO 42 U.S.C. §1983**

7 33. Answering paragraph 33 of plaintiff's amended complaint, defendants re-allege their
8 previous responses to plaintiff's amended complaint as if fully set forth herein.

9 34. Defendants deny the allegations contained in paragraph 34 of plaintiff's amended
10 complaint.

11 35. Defendants deny the allegations contained in paragraph 35 of plaintiff's amended
12 complaint.

13 **CLAIM III: VIOLATION OF THE COMMERCE CLAUSE OF**
14 **THE CONSTITUTION, PURSUANT TO 42 U.S.C. §1983**

15 36. Answering paragraph 36 of plaintiff's amended complaint, defendants re-allege their
16 previous responses to plaintiff's amended complaint as if fully set forth herein.

17 37. Defendants deny the allegations contained in paragraph 37 of plaintiff's amended
18 complaint.

19 38. Defendants deny the allegations contained in paragraph 38 of plaintiff's amended
20 complaint.

21 **CLAIM IV: DECLARATORY RELIEF PURSUANT TO 28 U.S.C. §2201**

22 39. Answering paragraph 39 of plaintiff's amended complaint, defendants re-allege their
23 previous responses to plaintiff's amended complaint as if fully set forth herein.

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on July 5, 2012, I electronically filed the foregoing document with the United States District Court using the CM/ECF filing system which will send notification of such filing to all counsel of record.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 5th day of July, 2012.

s/Amy Moe
AMY MOE, Legal Secretary

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